

P4
8005 e 14

THE
NATURE AND EXTENT
OF
SUPREME POWER,
IN A
LETTER

TO THE
REV. DAVID WILLIAMS,
(AUTHOR OF LETTERS ON POLITICAL LIBERTY)

SHOWING
The Ultimate End of all Human Power,
AND
Of a Free Government under God.

AND IN WHICH
MR. LOCKE'S THEORY OF GOVERNMENT
IS EXAMINED AND EXPLAINED;

Contrary to the general Construction of that Writer's particular
Sentiments

ON THE SUPREMACY OF THE PEOPLE.

By M. DAWES, Esq.

L O N D O N :

Printed for J. STOCKDALE, opposite Burlington-House,
Piccadilly. 1793.

THE
NATURE AND EXTENT
OF
SUPREME POWER
IN A
LITTE
TO THE

REV. DAVID WILLIAMS
(AUTHOR OF LETTERS ON POLITICAL LIBERTY)

SHOWING

The Ultimate End of all Human Power.

AND

Of a Free Government under God.

AND IN WHICH

MR. LOCKE'S THEORY OF GOVERNMENT

IS EXAMINED AND EXPLAINED;

Contrary to the general Conclusion of that Writer's particular
Sentiments

ON THE SUPREMACY OF THE PEOPLE.



L O N D O N :

Printed by J. Stoeness, opposite Burlington House,
1782.

TO THE
S O C I E T Y
FOR PROMOTING
Constitutional Information.

TO regard the support and continuance of our constitution in perfect order is no less laudable in a private society of constituents, than in those who are publicly constituted to the end of legislation and government; and since every Englishman is his own governor, he does no more than his duty when, mindful of his dignity, he sedulously regards the welfare of his country.

To the honour of the genius of Britain, such are the effects of qualified liberty, that it pervades the hearts of our fellow-citizens, and swells them with a generous pride on the advantages they enjoy above almost every citizen of the earth.

Yet, laudable as such regard is in men of sense and prudence, it is to be lamented
that

that the enthusiastic patriotism of men in ordinary stations, whose capacities enable them to soar no higher than the plodding pursuits of the world, too often neglect their lawful callings, and vainly, if not idly and ignorantly, busy themselves, in the contemplation of public transactions.

The love of one's country, or what constitutes its general good, is neither within the ken or taste of such sort of subjects: and though no restraint exists on their pursuits, pity is their only reward in impotently aiming to deserve the name of patriots.

A careful observer of the ways of men knows well, that great as the blessing of civil liberty is to every freeman, the mass of mankind are not calculated by the nature of their education or condition, to determine on the welfare of their country; and disposed as they are by habit, to pursue their own, in the road to which they are trained, patriotism beyond that end must appear a mockery in them, and subject them to ridicule, if not contempt.

These men, whose more laudable employ is to provide for their subsistence, have
neither

neither leisure nor information sufficient for the functions of watching and guarding the constitution of their country. Nature, who is very sparing of her gifts, has bestowed only on a few an understanding fit for the complicated researches of legislation and government, or a knowledge of the English constitution, and therefore, when a man wanders from his private interest and domestic duty, what else but pity can flow from those who behold him animated in a cause of which he is incompetent to judge?

To a society however avowedly formed for the promotion of constitutional information, the author feels himself justified in ascribing the following pages on the nature and extent of supreme power, and to observe, that although the community at large is a public constitutional society, governed by the best of laws, the private society for constitutional information is an innocent one, and may possibly be useful, if it be only to instruct and remind our fellow-citizens of those truths which are open to them all.

But useful and innocent as such a society
may

may be, the author means not to insult it by any attribute of perfection. It is composed of men and must be fallible; still, if they be actuated with a sincere and honest regard to their country, if they will wisely, impartially, and without prejudice, explore the true spirit of liberty and of a free government, as bounded by the English constitution, and candidly record in their journals whatever tends to illustrate a subject so material to the happiness of mankind, they will then record their own wisdom and command the esteem of the public.

With a view, therefore, to assist in the great cause of liberty and mankind, and explain the nature and extent of supreme power, a subject the most important of any, and from whence every political subject germinates, the author here presents you with his humble sentiments upon it. If you approve them, they are heartily at your service. If you cannot adopt them, you will, no doubt, be thankful for the opportunity they give you of turning to others more to your satisfaction.

TO THE
REV. DAVID WILLIAMS,
AUTHOR OF LETTERS ON POLITICAL
LIBERTY.

SIR,

I HAVE read your letters on Political Liberty with pleasure, as I have done all your writings I have hitherto seen. It is obvious in all of them you search out that perfection which, if discovered, would render civil society and government altogether unnecessary.

Possibly you have not recollected that a river never runs back to its source, or that all the na-

B

tions

tions of the earth are too old for us ever to form a consistent idea of a state of paradise, or be brought back to an imaginary purity. I know it is a favourite maxim with you, that all the rules of Nature are perfect, which I never intend to dispute, and that consequently their long perversion, throughout the successive ages of the world, has produced all the errors and vices which distress and make us what we are. If this be a truth, it is *a gratis dictum*, in any other sense than that when the sun shines in the meridian of day, the moon and stars are dim and unseen.

On the subject of intellectual liberty, you have already contended, that because it is not possible to controul it, except intellectually, it ought to be what in fact it is, and ever was, entirely free. Yet you have contended this point not merely to shew the nature of intellectual liberty, but its extent, which you would have carried to the avowal of every object of the intellect, whether in favour of virtue or vice, as constituted by states and men; and not only this, but you have arraigned the wisdom of the legislature for intolerance against it. In this, however, I believe you have in a degree relaxed your sentiments, but not before an error in the
misap-

misapplication of legal terms had been explained to you*.

Admitting then, such general principle of intellectual liberty to be right, and that you agree with all who know any thing of the subject of civil liberty, I come now to examine the principle of political liberty, which Montesquieu has very slightly considered, and you have adopted and extended.

That great writer has said, that the political liberty of the subject is a tranquillity of mind, arising from the opinion each person has of his safety; but doubting of this, and attributing such opinion of safety to civil liberty; you say that political liberty consists of a power in the mass of the people to prevent the incroachments either of the popular, the legislative, or executive divisions of the state; consequently you have attempted to improve upon Montesquieu, who referred to the laws for political liberty, by supposing it an inherent and untransferrable right in the people, before any civil laws were formed.

* See my letter on Intellectual Liberty, published by Cadell; and Mr. Williams' letter to Sir George Savile, published by Doddsley.

This is mere hypothesis, and all your deductions from it are merely problematical; the experience of the world, affording you no instance when political liberty, thus defined, was known or practised.

Mr. Locke, on the contrary, supposed a compact between the governor and governed; and thence asserted, that there was an inherent right and untransferrable power in the people, to remove or alter the legislature when ever they thought the trust reposed in it abused; yet with, every respect for such superior authority, I humbly offer, as a foundation on which all I have at present to say on the subject is raised, that there never was such a compact as Mr. Locke supposes, nor no such political liberty as you define since the English constitution and government have been regulated and established; but that it is more reasonable to suppose, that instead of either, there was an *implied contract* between the people to submit to those laws they resolved on, and afterwards to government to carry them into execution, as marked out in their system of civil jurisprudence, out of which, like a circle, no law should extend, but within which every subsequent law should be limited*.

This

* I have ever been unsatisfied with that system which derives the origin of government from a supposed original compact,
the

This system I call a constitution*, and by supposing civil laws to have passed before any form

the particulars and conditions whereof are at best imaginary and of course inconclusive. We are ignorant for what kind of government it was intended; and it seems to me most reasonable, that from the meaning of the word compact, nothing more is to be drawn from it, than the original assembly of men, forming themselves into citizens, for the purpose of regulating their moral conduct, and establishing an equality among them by convention and right. The original compact thus understood, might be supposed anterior to government or civil laws, as an implied contract between governors and governed, might be supposed to exist after their formation.

* The word constitution, seems never to have been made use of until the latter end of last century. Those who justified Charles II. and his brother James II. for infringing on the independence of Parliament, and suspending the test laws; and who maintained there were no laws against either, were properly opposed by the patriots of that time, who knowing very well that such practices of those Kings were not against any express law, determined them to be against the constitution; or in the language of Magna Charta, the law of the land.

Every machine consists of matter and form, and is cemented together by some laws or rules for some end or other. A civil community, therefore, is a machine invented for the good of mankind, as equal brethren under God, to be produced by legislation and government, the purpose whereof is the security of life, liberty, property,

form of government was instituted, I follow Montesquieu, and refer to the laws for political liberty, and not to the will of the mass of the people, independent of, or those divisions of the state which arise from them, and which I think (as I presume Montesquieu thought before me) visionary and impracticable.

Without transcribing any passages from your Letters, I understand the amount of them to be, that you contend for the supremacy of the people in all cases whatever: that magistrates, high and low, are all triable for offences at their bar, and subject to their mercy in punishment. In support of this doctrine you go back, not so far as you do to shew that the rules of Nature are perfect, namely, the happy days enjoyed in Eden, but comparatively so in politics, namely, the barbarous days of the Saxons in England, a gothic and uncultivated people, who kept their trespassing and invading feet there; when the Romans, after the discovery of so fine a country by Julius Cæsar, had too much on their hands at home to repress them.

perty, and limb, which, with the principles and rules from whence the end proposed is to be procured, give us the whole idea and import of the word constitution of England.

The

The writings of Spelman and the Mirror, are the text from whence you speak, and because those books have at best hypothetically defined the nature of the Folk Mote, in the rude days of the Saxons, (among whom true liberty was unknown) and which you as hypothetically apply to the purpose of political liberty, you contend that the people in the reign of Geo. III. when their number is encreased, their faculties developed, their wealth magnified, their agriculture, manufactures, and commerce extended, the boundaries of their excellent and unparallelled constitution limited and defined, their laws well digested, and liberty flourishes in all its branches, are entitled to controul, examine, judge, and destroy all law and government, whenever they think it expedient.

A doctrine, so wild and insompatible as this is with the practice of mankind, and so self deficient in theory, obliges me to suspend my opinion of it, until I have carefully examined it with the experienced condition of the human being.

First then, I believe you will have no objection to allow what has never yet been denied, that all power is from God, and that the designation of the persons who execute it is either immediately from him, as in the case of SAUL and DAVID, or from a community of persons choos-
ing

ing some form of government, and subjecting themselves to it, after the establishment of general laws; consequently, as there can be no lasting government, without the consent of those persons, and that though conquest may make them slaves, nothing can make them subjects but their own wills to submit to government: so that conquest may pave the way to government, but never can constitute it. That supreme power, therefore, which is essential to every community, and inseparable from it, by which it can form itself into any government, and on extraordinary occasions, supply defects, reform abuses, and re-establish the true fundamentals of it, I call the *supreme power real*, or power of the aggregate whole.

Secondly, That whenever a civil community has formed a government, which is the necessary effect of their establishment of civil laws, and subjected themselves to it—when they have invested some person or persons with the *supreme power real*; such power in the hands of such person or persons I call the *supreme power personal*: for the sense of the supreme power real, being known by the laws which establish a qualified political and civil liberty, it remains to be executed as necessity may require, and in whose hands

hands soever the execution of them rests, there rests the supreme power personal.

Thirdly, That when a community was small, and disposed from their condition to approach perfection, the supreme power personal rested in all its members individually who governed all in the aggregate, if ever citizens governed this way, which has often been doubted, because a government so perfect would be useless, and has been called a government and no government.

Fourthly, That when the supreme power personal rested in the hands of a few, the government was no longer a government of all by all, but of a few over the many.

Fifthly, That when the supreme power personal rested in the hands of one man, the government was a monarchy.

Now, a Commonwealth without a head limited by the laws to execute them, or a Monarch to govern by them, are equally absurd; a headless Commonwealth being too perfect for any government at all: a Monarchy too much for any single man's possession, though tyrannically assisted by an arrogated power drawn from the community he governs, or employed against it.

Necessity, therefore, having driven mankind to a trial of all these forms of government, and experience having satisfied them that they could live under neither that did violence to nature and reason, it is in England alone we must look for that singular form under which the dignity of manhood is at all maintained.

Sixthly, That the English government is built on the experience of many ages, and has been varied and modified in all, according to temporary prudence, and the changing circumstances of the affairs of men.

Seventhly, That as a government of all by all is imaginary, and as on the encrease of men no community could either assemble to frame civil laws collectively, or of course execute them as individuals over all in the aggregate, legislation has been produced by delegation, and government has ultimately rested in the hands of a Monarch possessing the supreme power *personal*, but limited by, and subject to the very laws he executes.

If you admit all this, as I suppose you will, the question will shortly stand thus: All power being from God, and as I call it a supreme power *real* in the community before any government was formed, or when formed, a supreme power *real* in the hands

hands of all, a few, or one of the people which then became personal: have they or have they not a right to remove, destroy, or alter the legislature, when they find it either act contrary to the trust reposed in it, (supposing a compact according to Mr. Locke) or, according to your idea of political liberty, to punish and destroy their acting rulers? And further, is that legislature, or are those persons who for distinction's sake form the popular part of it, responsible or not to the people for their conduct in it?

Perhaps there is not in the whole system of logic, a question of more magnitude or importance than this respecting supremacy.

That the welfare of the people is a supreme law, and that all laws and governments were formed to promote it, cannot be doubted by any man; but that their legislature and executive power are subservient or subordinate to them, is an assertion not hastily to be admitted. Were they void of imperfection they would be in want of neither, but wanting both as they do, and being unable to prescribe individually, rules of right to themselves, or execute them, they of necessity formed legislatures and governments by delegation. As a man invented a homestall to secure him from the inclemency of climate and weather, which would otherwise destroy him, so he invented delegation

to secure himself and property from encroachment: Destroy either, and you expose him to the perils which led him to establish both.

The supreme power *real* being in the people, which they exert when they create representation, it certainly remains, by their appointment, in their representatives. No lawyer or logician, I apprehend, will deny this, and if it prove adverse to their interest, the reflection will be on their choice, and no constitutional cure can be obtained, but by a dissolution of the delegated power according to law. To maintain the contrary, or leave it to the caprice of the people to oppose or destroy it without law, is *treasonably* to beat down the superstructure they have raised, and *rebelliously* defeat the end of all delegation.

Where, however, you may ask, is the remedy? Supposing there to be a disease, I answer in the laws, and not in the people, *except as one body*; in which I follow Montesquieu, who you seem to condemn for attributing to the laws the political liberty of the people, instead of their wills without laws. If there ever were, or will be, an instance when the delegated power which is supreme, as the power of those who delegate it, has forgotten or shall so far forget the interest of the people whom they represent, as to injure them

in their public proceedings, in which they include themselves, the laws only must be referred to as a remedy.

Thus the Convention Parliaments in 1660 and 1688, acted under the supreme power *real*, by restoring one King to, and establishing another on the throne. The first brought home an exiled King: the last created one on the abdication of a person who had renounced the kingly office. The people in both instances were without a government, and instead of presuming to govern themselves executively, they wisely deliberated by their delegates and Lords, on filling the throne with a constitutional King as their governing power. In this they exerted their right, not of themselves collectively, but by delegation, subject as they were to the laws *then* in being, to settle their government for the peace and security of the nation.

The English community first gave being to King and Parliament, and to all the parts of the constitution; but they never reserved any power to themselves to destroy either. The only remaining power in the popular part of it, is a power of reformation, the standard whereof is the laws, to which both King and Parliament are subject.

The

The conclusion then is, that as the delegates act as the people themselves, and not distinctly for them, that as Kings, or the executive power are limited, and have no will of their own, but as joined with the will of the people manifested in the laws, *the legislature is of course supreme, really and personally*, and the people are lost in its supremacy. In the language of a Chymist, they become a *caput mortuum*, after the essence of delegation is extracted from them; and lost and dead they remain until the legal death of such legislature at stated times, or artificial death by royal dissolution. Were it otherwise, no government whatever could exist under Heaven among beings subject to imperfection, and treason and rebellion would be unknown.

This must ever be admitted, so long as civil laws subsist, and right and wrong are maintainable against disorderly and lawless power, which, to the disgrace of our annals, has placed the sceptre in the hands of a hypocrite, a tyrant, and an usurper. Cromwell is an example; and infamous, insincere, and unconstitutional, as was the reign of the elder Charles, there existed no *legal* tribunal in the kingdom for his trial and condemnation. I speak as a lawyer on the mode of his trial and death, without lamenting the latter, which would have been more honourable

to

to the seat of civil justice, had it happened by the hands of an assassin, or in battle, and not by the pretended sanction of law.

Every one knows that a limited King is the fountain of honour, justice, and mercy. It is absurd, therefore, to say that he delegated judges to try and execute himself. In his kingly character, he is a sole corporation, the representative of all his subjects, consequently, to try and execute him as a King, would be to try and execute the whole community.

The very idea of treason is a proof of this, the punishment whereof (the highest of any) is a barrier between the governors and governed, the legislature, the King, and the people at large.

The mistake then seems to be, that the *supremacy real*, which is in the community at large, is not exercisable after the formation of civil laws and government; but for the preservation of both, when violated or endangered, as was the case at the Restoration and Revolution, when this *supremacy real* was not exerted by every individual collectively, but by Parliament, excepting only the kingly branch of it, which was suspended in one case, and abdicated in the other.

If the people at large were the supreme judges of the conduct of those they constitute, there would be no possibility of promoting their happiness, executing their laws, or governingt hem at all. All numerous bodies are mobs, and you have said yourself, that the smaller the assembly, the more steady and wise will be their deliberations : But if after the mass of the people have refined themselves into a legislature or governing power, they are to controul that power otherwise than by law, it will be to make them the apex of both, and to mistake the foundation for the superstructure, the architect for the edifice. The cause for the effect.

The people at large when they have delegated their power of supremacy real, have no more to do with it than has the architect with the edifice, except to watch and keep it entire. The laws guard both from encroachment, and whenever they fail, such is the point arrived at, that chaos comes again, and all laws and forms of government are dissolved and destroyed. No case is supposeable that brings men back to such a state as this, unless we misconstrue the indefinite sentiments of those writers, who have speciously supposed that the people are above themselves, that is to say, their delegation, and that their representatives are inferior and subordinate, and not equal to them

them, which is supposing in so many words, that a transfer of power is no transfer whatever. Strange antithesis!

The independants, who, after a mockery of trial and judgment, brought Charles I. to the block, proved the folly of this doctrine, and were afterwards the dupes of their own rashness and folly, by seeing a glorious and brilliant hypocrite hold the reins of government over them, under the cautious name of Protector. The independants were for a government and no government. They were too intolerant to wish any other denomination of men should bear sway but themselves, and when in power, too jealous of it to divide it. They abhorred kingly government in any shape, for which, and other very contemptible reasons, they brought on themselves the opprobrious name of Republicans*.

D

Un-

* It is remarkable that most of those writers on government and political liberty, who have been bred in Presbyterian principles, for whose virtue and learning the author has a great esteem, all think nearly alike on those subjects. They contend that political liberty consists in the will of the popular part of the community, which they consider as supreme. Practice,
and

Undoubtedly then, the *supreme power real*, is in the people, who derive it from God, and this I think indisputable.

The *supreme power personal*, is in one person or more, in whom it rests to the end of government, and as it is impossible that legislation and government can be conducted but by representation,

and theory, however, are so distinct, that a perfection of morality must first be proved practicable, before that system of government be adopted, which the Presbyterian writers in general contend for. Every discerning man sees the beauty of a perfect government in theory, but such is human nature, that instead of governing mankind according to what they *ought to be*, they are of necessity governed according to what they morally *are*. Thus society, which was produced by our wants, ultimately produced civil government to restrain our wickedness; consequently those writers who consider man in civil society as a perfect being, always prefer republicanism; whereas, the very idea of civil government, implying that a man is the reverse, a limited monarchy, or government compounded of a democracy, an aristocracy, and a monarchy, as established in England, if *virtuously* administered, is best calculated to answer the end proposed, namely, the greatest happiness of the greatest number. What is a more common observation, than that there is no virtue among the people, a truth much to be lamented on all sides. Were they virtuous, the necessity of government would abate. If therefore, the legislature and government of England be corrupt and abuse their power, is it not because the people at large, for whose supposed
goods

tion, each and both are as much the *supreme power real*, as if the people had never conferred it on any part of themselves. The checks they have during the existence of such a representation, are marked out by the laws, which are the basis of their political as well as civil liberty, except in those cases where the many overrule the few by force, which is political liberty independent of all law and government.

The Delegates are created under the summons of the King, who, being himself in his kingly character, the Delegate of the community summons them in the name of the whole; every member of such community forming a component part of his royal figure, which is supported by the constitution; and these Delegates die a natural death at stated times according to law, or by royal dissolution in the intermediate time.

At either period, the country is without a
D 2 Parliament,

good legislation and government are produced, are and do the same? Are they not corrupt, and do they not abuse their power, whenever called upon to exert it? Certainly yes! which confirms what is humbly said in the opening of this letter, that as a river never runs back to its source, so mankind in England are too remote from perfection, ever to execute the supremacy *real*, which naturally is with them, as the Presbyterian writers contend for, when they place them *above* their legislation and government.

Parliament, and government at a stand, until a new delegation is created. The creation is important, but while it exists it certainly is subject to no controul, but of the constitution, the laws, and of Parliament.

Let us, however, suppose with Mr. Locke, in consequence of a compact, that there remains inherently in the people, a supremacy to remove or alter the legislature whenever they find it act contrary to the trust they have reposed in it.

In the full and general sense of the assertion, it is not to be controverted; but if it be inferred from it that the people collectively are at liberty to do this when they think their trust abused, it would set them above the authority that is born of them, and like a mother, by her offspring, to murder and destroy it. Mr. Locke's meaning, therefore, I presume, was this, that whenever A WHOLE PEOPLE united and resolved to change their government, abrogate their laws, and begin to legislate and govern *de novo*, they had an inherent right to do so; and so they certainly have, considered as *one* man or body, there then being no power under God subsisting, but of the people as a multitude, the exertion of which may be called political liberty, or the liberty of the multitude unqualified by civil laws

or

or government: but this is the whole people, the whole community, King, Lords, and Commons, as a Parliament, included; for certainly, King, Lords, and Commons, are parts of the community and not distinct from it.

No instance can be referred to in England, whenever this right to supercede all law and government was exerted; nor when the people, better understood by the name of the popular or constituting part of the community, attempted to redress public grievances in the execution of the laws or government of their country, except by legal application to the King as their Chief Magistrate, or the other parts of their legislature: yet, if it be concluded, as I believe it is by many superficial or insincere writers, that the people have a right to alter or remove the legislature when it acts contrary to the trust they have reposed in it, the assertion is too loose and indefinite, that they are then left as the only judges of the fact, whether such trust be abused or not.

Who so unjust, so improper judges of any thing as numerous bodies, from whom it is nearly impossible to collect an unanimous judgment on any subject? The inherent supremacy of the people then, to alter or remove their legislature, is no more than that supreme power real,

I have,

I have, in the first place, defined, which men, as citizens, possess, without any government, and which they have twice exerted in England, by delegation, not of themselves collectively, at the Restoration and Revolution.

As I conceive Mr. Locke meant to say no more, it seems a libel on the character of so great a man, to suppose he meant that the constituting body of the people have a right to overturn their laws and government, to destroy King, Lords, or Commons, as their humour may suggest, or riotously and tumultuously to controul their legislature and rulers, according to their licentious wills. Nothing then would be treason. The *crimen læsæ magistratis* would be unknown, and the fence between the governing power and the power governed would be beat down, no government would subsist, and allegiance and protection amount to nothing.

The whole question, therefore, thus considered, the supreme power real, when delegated by the people possessing it, is supreme power personal in those to whom it is transferred, which necessarily exists for the benefit of the community, otherwise the bond by which they are united would be dissolved, and nothing remain but anarchy and confusion. This bond of union
subsists

subfists only by authority arifing from themfelves, and an obedience by themfelves, not refiftance or rebellion, which are treasonable and destructive of all the ends of civil polity; and this authority and obedience are prefupposed by civil laws, which are the bafis and ftandard on which the rights of the community are eftablifhed. The laws are the fupreme power real *exprefsed*, the general will, the fovereign power promulgated, to which all muft have recourfe, as well thofe who rule as thofe who are ruled; and thus the laws only form the true fupreme power real; the only true political liberty, oppofed to the lawlefs and unruly will of the people, as an effect of the delegated fupremacy of the crown, and both Houfes of Parliament, which are not legally fupposed, becaufe out of the reach of any ftated rule, capable of abufing the powers they poffefs, to be exerted for their own fafety, and the fafety of the conftituting body of the people. If the contrary, it would be fupposing the legiflature capable of working injuries to the community, and making it a *felo de fe*.

Yet, whenever an inftance happens that they teftify a tendency to fuch a destructive end, in breaking the union by which the community is held together, by violating the laws and conftitution, and by impofing, contrary to their intereft

terest and happiness, tyranny on those from whom under God their power arises;—when-
ever, I say, such an instance happens (and such
an instance never has happened, except in the
Kingly character) new remedies must and will
be found out against new dangers, as happened at
the Restoration and Revolution.

I am aware that the people are frequently said to
complain of an abuse of that power they are ob-
liged to transfer to others, because it is otherwise
useless to them. Would they not, however, have
reason to complain much more if they were obliged
to deliberate collectively, than they have after
transferring it? I anticipate your answer, by re-
ferring to one of your letters on political liberty*,
wherein you propose a scheme for retaining
supreme power in the people after delegation, and
during legislation and government; but though
your scheme for civil government, is not unlike
the ecclesiastical government of the Presbyte-
rians, it is a novelty promising nothing but diffi-
culty in experience.

According to the church scheme of the Pres-
byterians, every parish was to have a pastor or
minister, and two ruling elders, who were lay-
men to be chosen by the parishioners, and one
or more deacons. It was a maxim, that in all

* Letter six.

cases there should be two ruling elders to one minister, and these governed *by the whole parish*. If the parish was small, and had not two persons in it fit to be ruling elders, it was to be immediately under the government of the classis, which consisted of a number of *parishes* to be united for that purpose. There was also a provincial synod, for an assembly of all the classis in a county, to which each classis sent two ministers and four ruling elders; and besides these, there was a national synod of ministers and elders, who were the representatives of all the parishioners in church matters, subject to the superintendency of Parliament, so that there lay an appeal from the parish to the classis, thence to the provincial synod, thence to the national, thence to Parliament. The classical eldership met once a month, the provincial synod twice a year, and the national when the Parliament *pleased*.

Now, however it may be thought that these church delegates of the Presbyterians were the actual representatives of all the parishioners whom they represented, I believe your plan for an equal representation in temporal matters, which is somewhat analogous to it, will be found not less, but altogether impracticable.

What confusion would there be, were ten adjoining inhabitants to choose by ballot an actual

E

repre-

representative, who with nine representatives of adjoining tythings, were to choose an actual representative of an hundred, until the choice of the district united in one who is to represent it in Parliament*? According to this scheme, ten inhabitants would choose one, who, with nine more to be chosen for the hundred, would choose one for that hundred: and supposing a county to contain a thousand hundreds, a thousand men (at the rate of one for each hundred) would choose two for a county. If, therefore, Parliaments were to be annual, as you propose, the whole year would probably be taken up in elections, and political liberty would be the fantastic employment of tythings, hundreds, and counties, to their inevitable disorder and injury. Instead of the people's being able to make their delegates express their judgment, they would have none to express, and all with them would be riot indeed!

Whoever then considers your system of political liberty, and your plan for reforming the representation, will hence see, that simple as they may appear to you in problems, they are too complex for the good purposes proposed by them in execution.

As to the first, whatever encomiums may be paid to the Saxon Government by the moderns,

we

* See page 80, Letters on Political Liberty.

we have so little certain information of it, that whether it was one thing or another, we are entirely ignorant beyond conjecture; and so imperfect is our knowledge, that we can only surmise on the rights of the Crown and privileges of the people. All that appears is, that there was a national council, called *wittena gemote*, or meeting of wise men, whose consent was requisite for making laws and confirming other public acts, which shews that their government was legal and limited; but who formed this *wittena gemote* has not been discovered. Bishops, Abbots, Earls, and wise men, were admitted into that assembly, but we have never seen that the people at large had any share in their deliberations, unless the wise men are to be considered as their representatives, which the favourers of monarchical faction deny, and ancient historians leave doubtless, by calling them *principes*, *satrapæ*, *optimates*, *magnates*, *proceres*, from whence we may infer, that the Saxons were under an aristocracy and not a democracy; yet as the more considerable proprietors of land were entitled, without election, to sit in this national assembly, the royal power was restrained. Nor was such assembly numerous, the landed property in England, during the Saxon times, being in few hands; and to confirm our opinion of an aristocracy, we find that the inhabitants of the kingdom were under the protection of particular noblemen, whom

they considered as sovereigns; and societies thus protected by noblemen, formed a strong cement of friendship, when men lived in constant danger from their enemies. They thus supplied the place of a civil union which was weak, and obtained that security which their laws did not afford them; so that licentiousness rather than liberty prevailed among them. It is natural for men to guard against injuries and oppressions at all events, and where the laws and magistracy are insufficient, they will seek out and yield to superiors, or join in private bodies under some powerful leader, which consequently renders all anarchy productive of tyranny. The influence of noblemen over their tenants, retainers, and slaves, the clientship of the burghers, the want of a middling rank of people, the extent of the monarchy, the lax execution of the laws, and the continued disorders of the state, admitted by all historians, evince that the Saxon Government was ultimately, if not from the beginning, aristocratical: and as such, whatever might have been the business of the *folk mote*, or whatever were the result of their deliberations, it does not appear that they enjoyed that political liberty you seem to imagine, but that, on the contrary, they were entirely destitute of it, except under licentiousness, which produced the tyranny of an aristocracy.

Yet

Yet it must be admitted, that among the Saxons the immortal Alfred conducted himself as a King and a man, with the utmost wisdom. It was he who divided the kingdom into counties, hundreds and tythings, and made every house-holder answerable for the behaviour of his family and friends, who were all obliged to be registered in some tything, and who were all pledges for each other.

Still such a regular distribution of the people, which very likely occasioned your idea of political liberty, with such a strict confinement in their habitations, may not be necessary or proper, in times when men are more enured to obedience and justice; and, perhaps, it might be considered as destructive of liberty and commerce in a polished State. It was nevertheless well calculated to reduce that fierce and licentious people, under the wholesome restraint of law and government.

Now, as to your plan for an equal representation, you say, if the House of Commons were a delegation from the people, it would not have the power of voting itself independent. But I maintain, that all delegates *are the people themselves*, and that they are in no sense distinct, consequently, what the former vote the latter approve; every delegate in the realm, when aggregated,
voting

voting for the good of the realm at large, according to the best of his judgment, and not the exclusive good of any particular part of it *.

In this I am supported by that able man the late Lord Chief Justice Willes, and many others, who, in the debate of one thousand seven hundred and thirty-four, on a motion for repealing the septennial act, contended, that though the delegates of the people have all a dependence on them for their delegation, they have, when constituted, no longer any dependence on their constituents respecting their conduct in Parliament. The power of the people, he said, was then devolved on the delegates, who, on every question that came before them, were to regard only the public good in general, and to determine according to their own judgments; otherwise, and, were they to depend on their representatives, or follow blindly the instructions they send them, they could not be said to act *freely*, nor could *such* Parliaments be called *free*. Such a dependence would be dangerous, and of worse consequence than a dependence on the Crown: for, in a dependence on the Crown there can be no danger, as long as its interest is made the same with that of the people; whereas the people of any county, city, or

* See my Letter to John Horne Tooke, Esq. published by Stockdale.

borough, are all liable to be misled; and ignorant of what may be beneficial to themselves or their country, they may often be induced to give instructions contrary to the interest of both.

That the judgment of the people may be expressed by the delegates, is a principle already understood in the very definition of the character according to our constitution; and the judgment and will of the people are already concentrated in their delegates, according to the very spirit of legislation, every Delegate being the actual figure of his constituents whom he represents in Parliament.

It is not because to the folly and corruption of the people many ignorant and iniquitous characters get into power, that there should be any new plan of representation, so as in your idea to lessen bribery or influence, and have the judgment of the people equally known. I have already given my reasons why, if it were adopted, as you propose, it would only end in confusion; and by making too many parts for the sake of perfecting the whole, it would engage the attention of too many persons to answer the end designed in their own happiness and prosperity, by drawing their minds away from private avocations; the pursuits whereof, and the protection

of all its profits, as well as of life, liberty, and limb, the present mode of representation, *if exerted with virtue*, is sufficiently calculated to guard.

The experience, therefore, of many eyes, opposed to what you only offer as problems, will, I imagine, be found to justify and warrant a continuance of our constitution as it now stands, (except that a more complete representation of the people is necessary) and convince the most discerning friend to mankind, to liberty, and Britain, that nothing but *virtue* is wanting among Englishmen at large, to repair all their idle complaints of public abuses, which arise from the wickedness, covetousness, luxury, pride and vanity of *themselves*. Let these be stifled in their wanton hearts, and they will instantly see, with me, that political liberty dwells secure in their laws, and that every plan, however moderate, ingenious, or independent for amending their representation, except by *encreasing* it, is chimerical and unnecessary.

And now, Sir, however I may appear to show the inutility of your problem respecting political liberty, or your plan for an equal representation,
it

it is proper in me to assure you, that sincere and well-intentioned as they undoubtedly are, in the great cause of mankind, I hope, and think it will be found in this answer to your Pamphlet, that I am no less their friend than yourself, and that if there were any mode whereby their happiness or prosperity could be promoted, beyond the measure of either, which is, or may be enjoyed in England, as they are at present governed, no man would be more ready to applaud and pray for its adoption than myself. I have considered your problem and plan with my utmost attention, and admiring your honest and philosophical motives for laying them before a vicious public, I have only to lament, as an Englishman, that it is not virtuous; and of course that you should be tempted to propose a correction of its vices by a problem and plan, too perfect for beings labouring under all the inconvenience of imperfection, and too complex and impracticable to answer the purpose intended.

I have long viewed the just liberty and welfare of Englishmen with fear and jealousy. I have beheld and read of administrations, legislatures, and statesmen, weak, corrupt, and abandoned; but under none have I suffered more for the safety and honour of my country, its constitution,

stitution, and laws, than that which proposed and prosecuted an invasive war against America;— a war which no success would have sanctified; but which defeated, (injured as it leaves us) is preferable to the probable violence true liberty would have received from an American conquest.

But after all my enquiries into the cause of so much complicated error and mischief, and all my anxiety to see the wild and wicked career of Ministers curbed, whether King, Lords, Commons or others, I have traced it up to the people's want of virtue.

Had they virtue, your plan and problem would never have started in your mind; their delegation would be virtuous; and virtue would pervade the whole community to the end of public peace and prosperity; internal security of life, liberty, property, and limb, and of private happiness which, I fear, no problem or plan will ever produce without it.

I am, very sincerely and respectfully,

Your most humble servant,

M. D A W E S.



